

Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

AMENDED

11 CV 594 Sc

All material filed in this Court is now available via the INTERNET. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION

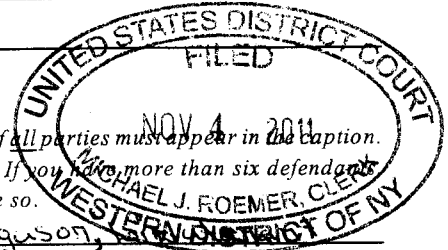
A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Thel Hamar Stapleton Din. # 04-A-1701
2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Daniel Witenstoch, M.D. 4. Ferguson
2. John Humphreys, Superintendent 5. Picots, Captain
3. John Golvin, Dept. Supt. Security 6. Roberts, Sergeant



Continued

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
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(Prisoner Complaint Form)**

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1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: *NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. _____
2. _____

-VS-

B. Full Name(s) of Defendant(s) *NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

- C ont. 1. Correction Officer M. Shrambka 4. C.O. Szymant
2. Wygoft 5. Unit Chief Sleat, Tom
3. R. Casper 6. Ass. Det. Supl. Prgm. Miller

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION *NOTE: To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Daniel Wipnstock

(If applicable) Official Position of Defendant: Medical Doctor, Director at Five Points Corr. Fac.

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: Official address of defendant is unknown. It is believed that defendant remains employed at Five Points Corr. Fac.

Name of Defendant: John Lemphre

(If applicable) Official Position of Defendant: Superintendent of Five Points Corr. Fac.

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: Official address of defendant is unknown. It is believed that defendant has retired since having knowledge of both incidents.

Name of Defendant: John Cowin

(If applicable) Official Position of Defendant: Deputy Superintendent of Security

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: Official address of defendant is unknown. It is believed that defendant remains employed at Five Points Corr. Fac.

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes ☐ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: M. STEINBERG

(If applicable) Official Position of Defendant: Correctional Officer (R.M.H.U.)

(If applicable) Defendant is Sued in 1 Individual and/or 1 Official Capacity

Address of Defendant: Official address of defendant is unknown. It is
believed the defendant remains employed with Fire Points Corr. Fac.

Name of Defendant: R. Casper

(If applicable) Official Position of Defendant: Correctional Officer (B.M.H.U.)

(If applicable) Defendant is Sued in 1 Individual and/or 1 Official Capacity

Address of Defendant: Official address of defendant is unknown. It is believed that defendant remains employed with Five Points Corr. Fac.

Name of Defendant: WyGoff

(If applicable) Official Position of Defendant: Correctional Officer (R.M.H.U.)

(If applicable) Defendant is Sued in 1 Individual and/or 1 Official Capacity

Address of Defendant: Official address of defendant is unknown. It is believed that defendant remains employed with Five Points Corr. Fac.

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in **state or federal court** dealing with **the same facts involved in this action**?
Yes _____ No _____

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Deymour

(If applicable) Official Position of Defendant: Residential Mental Health Unit Corr. Officer

(If applicable) Defendant is Sued in / Individual and/or / Official Capacity

Address of Defendant: Official Address of the defendant is unknown.

It is believed that defendant remains employed as above-mentioned at Five Point Corr. Fac.

Name of Defendant: Slaw, Tom

(If applicable) Official Position of Defendant: Forensic Unit Chief RMU at Five Points Corr.

(If applicable) Defendant is Sued in / Individual and/or / Official Capacity

Address of Defendant: Official address of defendant is unknown. Defendant is employed at Five Point Correctional Facility

Name of Defendant: Miller

(If applicable) Official Position of Defendant: Ass. Dept. Supt. Program Five Points Corr. Fac.

(If applicable) Defendant is Sued in / Individual and/or / Official Capacity

Address of Defendant: Official address of defendant is unknown. Defendant is employed at Five Points Correctional Facility

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes / No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): ~~M. L. T. St. John~~ T. St. John

Defendant(s): State of New York

2. Court (if federal court, name the district; if state court, name the county): Court of Claims of the State of New York

3. Docket or Index Number: #113044

4. Name of Judge to whom case was assigned: J. Catherine G. Schaefer

5. The approximate date the action was filed: November 24, 2006

6. What was the disposition of the case?

Is it still pending? Yes ☒ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☒ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit.

Plaintiff(s): Thel T. Stapleton

Defendant(s): Daniel Winstock

2. District Court: Western District of the State of New York

3. Docket Number: 11-CV-05945C

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: July 28, 2011

6. What was the disposition of the case?

Is it still pending? Yes ☒ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|---------------------------|--------------------------|--------------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • <u>Excessive Force</u> | • <u>Denial of Medical Treatment</u> |
| • <u>Equal Protection</u> | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) the 28th day of April, 2011, the medical department (give the **name and position held** of each defendant involved in this incident) located at Five Points had begun to deny medical treatment to me. Doctor Danitha Wienstock is the Director of Medical Services at Five Points Corr. Inst. did the following to me (briefly state what each defendant named above did): Dr. Wienstock disregarded my assertions of pain that I am still experiencing in my knees. This doctor had, without full consultation, discontinued a medication that had been prescribed by a specialist for the issue, & reordered one of his own choosing. After being notified that medication was not helping, I being notified that I wished to undergo surgery to stop the pain, I was denied that option as well as having the ordered braces reissued. I to return to physical therapy.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: a violation of Equal protection of the law; not to be subjected to cruel & unusual punishment

The relief I am seeking for this claim is (briefly state the relief sought): That the defendant be ordered to pay compensatory monetary damages for aggravating a pre-existing physical & mental disorder.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? The decision was for the defendant.

Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? The decision again was for the defendant.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I am still awaiting the remainder appeals from C.O.R.C.

A. SECOND CLAIM: On (date of the incident) the 24th day of August, 2011, in the presence of defendant (give the **name and position held** of each defendant involved in this incident) of Sergeant Roberts, Officer's M. Sharma, R. Gasper, Sgt. M. Wycott had physically assaulted me by using unnecessary excessive use of force.

did the following to me (briefly state what each defendant named above did): Officer Wycoff had held a retention strap, while I was handcuffed, at the same time, Officer Sharma had pushed me in my cell, on my back, began to assault me. Officer Casper, Sgt. ran into my cell too, began to assault me. The Sgt. (Roberts) had witnessed the end of the assault, did nothing. Sgt. Inlandant, D.S. S. Colins, Captain Picolo, Lt. Farganson, Unit Chief Stant, Ass. Dept. Supt. Programs had been made aware that this officer had had numerous encounters with me, my assertions of him attacking me.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: for a violation of equal protection of the law, a right not to suffer cruel & unusual punishment

The relief I am seeking for this claim is (briefly state the relief sought): I am seeking Compensatory monetary damages for an aggravation of a preexisting mental physical disorder.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? Result for the defendant

Did you appeal that decision? ☐ Yes ☒ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

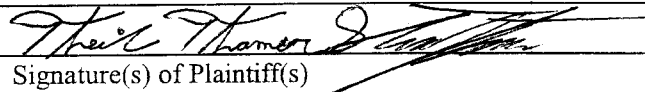
The plaintiff respectfully request for compensatory & monetary damages & punitive damages for the actions of the correctional officers

Do you want a jury trial? Yes ☒ No ☐

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17th, 2011
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



Signature(s) of Plaintiff(s)

FORM 2131E (REV. 6/06)

INMATE GRIEVANCE COMPLAINT

Grievance No.

FPT-24522-11

APR 19 2011

22 - Medication (pain) issue
Stapleton, Thail Five Points

CORRECTIONAL FACILITY

Date 4/15/11

Name Thail T. Stapleton Dept. No. 04-A-17a Housing Unit 12 A237
 Program STP AM STP PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) I have had my
medication discontinued upon my arrival to
this facility for no reason nor without warning.
The medication I take is stronger than
Motrin; was prescribed by an outside special-
ist. Said medication relieves chronic pain in
my knees due to arthritic conditions.

Grievant
Signature

Thail T. Stapleton 04A17a 4/15/11

Grievance Clerk

RR

Date:

APR 19 2011

Advisor Requested

☐ YES☐ NO

Who:

Action requested by inmate:

That my medication be immediately
reinstated

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant
Signature

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE GRIEVANCE COMPLAINT

FORM 2131E (REV. 6/06)

Grievance No.

EPT-24565-11

MAY 01 2011

Five Points

CORRECTIONAL FACILITY

Date April 28, 2011

Name Theron T. Stapleton

Dept. No. 04A1701

Housing Unit 12A237

Program STP

AM STP

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) I am being denied medical attention. Care My knees, which have arthritis is creating severe pain that over the counter medication is not taking care of. Dr. Daniel Winstock has discontinued the medication I've been taking for 13 months with no problems (side effects). This was done without consultation.

Grievant

Signature Theron T. Stapleton

04A1701 April 28, 2011

MAY 01 2011

Grievance Clerk

Date:

Advisor Requested

☐

YES

☐

NO

Who:

Action requested by inmate: That I be replaced on the medication that works. has kept me from pain. that my physical therapy begins.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

5/01/11

FORM 2131E (REVERSE) (REV. 6/06)

Response of IGRC:FPT-24522-11

Per S. Cordileone NAI. the risks associated with the use of celebrex, specifically heart disease, outweighs it's benefit. There are many other medications which are used to treat arthritic pain which do not lead to heart disease. It has been suggested this patient use motrin to control his pain. Celebrex is not a life threatening medication and will not be ordered as it is not medically indicated. IGRC must note it cannot override or dictate medical treatment.

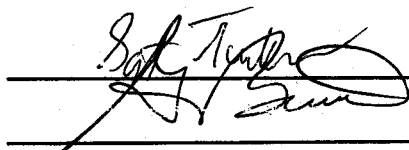
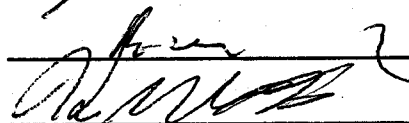
GRIEVANCE DENIED

83

MAY 04 2011

Date Returned to Inmate _____ IGRC Members _____

Chairperson _____

Return within 7 calendar days and check appropriate boxes.*

☐ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal

Signed _____

Grievant

Date _____

Grievance Clerk's Receipt _____

Date _____

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent _____

Date

Grievance forwarded to the Superintendent for action _____

Date

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

FORM 2131E (REV. 6/06)

INMATE GRIEVANCE COMPLAINT

Grievance No.

FPT-2 4590-11

MAY 10 2011

CORRECTIONAL FACILITY

Date May 3rd 2011

Name Thail T. Stapleton Dept.No. 04A1701 Housing Unit 12 A2 37
 Program _____ AM _____ PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible)

Dr. Daniel Weinstock had
become verbally abusive; displayed uncontrollable
unprofessional conduct on the above mentioned date, was
grievant was interviewed. He utilized terms such
as "you people" in connotations that was bigoted. He
never address alternate medication being that, over
the counter medication is doing nothing but keeping me in
pain.

Grievant

Signature

Grievance Clerk

Thail T. Stapleton 04A1701 May 3rd, 2011

Date: MAY 10 2011

Advisor Requested ☐ YES ☐ NO Who: _____

Action requested by inmate: _____

This Grievance has been informally resolved as follows:

That this doctor be made to attend social skills classes &
that I be seen by a specialist concerning my constant
pain in my knees.

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)


Grievant

Signature

Date: _____

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p>	Grievance Number FPT-24590-11	Desig./Code I/22	Date Filed 5/10/11
	Associated Cases		
	Facility Five Points Correctional Facility		
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Title of Grievance Wants To See Specialist For Pain		

9/21/11

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, and upon recommendation of the Division of Health Services, the action requested herein is hereby denied. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the grievant was seen by Dr. W... on 5/3/11 and became angry when he was told that he would not be receiving Celebrex. Dr. W... attempted to explain to the reasons for not ordering this medication, but the grievant left the room. An exam could not be conducted and no medical treatment was ordered at that time. The grievant was a no show for his 6/14/11 appointment, but was seen by his primary care provider on 8/23/11. An orthopedic referral was submitted, but denied because the grievant has full range of motion. CORC further notes that the grievant is receiving pain medication as prescribed and is scheduled for a follow up appointment.

In regard to the grievant's appeal, CORC asserts that all relevant information must be presented at the time of filing in order for a proper investigation to be conducted at the facility level. Dr. W... denies verbally abusing the grievant and CORC has not been presented with sufficient evidence to substantiate any malfeasance by staff.

SLE/

[Signature]



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

MEMORANDUM

FROM: Karen Bellamy, Director, Inmate Grievance Program
SUBJ: Receipt of Appeal

T STAPLETON 04A1701 7/25/11
Five Points Correctional Facility
Your grievance FPT-24590-11 entitled
Wants To See Specialist For Pain
was rec'd by CORC on 6/29/11

A disposition will be sent to you after the grievance is reviewed by CORC

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

FORM 2131E (REV. 6/06)

INMATE GRIEVANCE COMPLAINT

Grievance No.

FPT-24850-11

22 - Denied me care
Fire Points (RMH4)

CORRECTIONAL FACILITY

Date 7/12/11

Name Stapleton, Tami

Dept. No. 04-A-1701

Housing Unit D-9

Program

AM

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) On the about date of approx. time, nurse Carroll for medical was not helping me. I explained to her that the cold in the cell was hurting my knees (artificial) is hurting me. She justified that by saying the cell is hot. I told her that my walking on the floor with no support (she says) as well is hurting me. She told me that it should not be a problem. I told her I am having problems with in-grown hairs I need to see a dermatologist I shown her raw skin. She denied me assistance for repair.

Grievant
Signature

Tami P. Stapleton

04-A-1701

Grievance Clerk

Date:

Advisor Requested

☐

YES

☐

NO

Who:

Action requested by inmate: That is nurse be required to return to the Department of Education for review of patient bill of rights I that I be allowed to see specialist.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant
Signature

Date:

JUL 13 2011

D2

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

Response of IGRC: FPT-24850-11

7/20/11

The residential mental health unit is climate controlled and cannot be changed by medical personnel. The shoes which OMH patients wear are also not a medical issue. Nurses do not refer patients to specialty clinics, only a doctor, NP, or PA can refer patients. The grievant had an appointment to see Dr. Weinstock on 6/21/11 but the grievant refused this appointment. The grievant is advised to return to sick call and follow proper protocol to re-schedule an appointment with the doctor. These statements were made by both Nurse C and the Nurse Administrator. The IGRC advises the grievant to address climate and footwear concerns to the area supervisor as these are not medical issues.

Grievance Denied

Date Returned to Inmate JUL 25 2011 IGRC Members R. Bee
 Chairperson [Signature] [Signature]
[Signature]

Return within 7 calendar days and check appropriate boxes.*

☒ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal


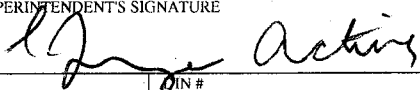
Signed _____ Date _____
 Grievant

 Grievance Clerk's Receipt Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent _____
 Date

Grievance forwarded to the Superintendent for action _____
 Date

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES and COMMUNITY SUPERVISION INMATE GRIEVANCE PROGRAM SUPERINTENDENT RESPONSE	GRIEVANCE NO. FPT-24850-11		DATE FILED 07/13/11
	FACILITY Five Points Correctional Facility		POLICY DESIGNATION I
	TITLE OF GRIEVANCE DENIED ME CARE		CLASS CODE 22
	SUPERINTENDENT'S SIGNATURE 		DATE 08/05/11
GRIEVANT: STAPLETON, Theil		IN # 04A1701	HOUSING UNIT 77-0D-009

The investigation reveals that the RMHU is a climate controlled building and the grievants footwear issues are not Medical issues. Nurses do not refer inmates to Specialty Clinic, only the Doctors can.

The grievant refused an appointment on 6/21/2011 with Dr. Weinstock. The grievant needs to utilize the Sick Call procedure to address his Medical needs.

Appeal denied.

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have four (4) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

I have utilized said process. I have not garnished any assistance. Therefore, it is plain to see that there was no true investigation taken in any true accounts.

Theil T. Stapleton 04-A-1701
 Grievant's Signature

8/10/2011
 Date

Grievance Clerk's Signature

Date

CC: 7.12



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

MEMORANDUM

FROM: Karen Bellamy, Director, Inmate Grievance Program
SUBJ: Receipt of Appeal

T STAPLETON 04A1701 9/13/11
Five Points Correctional Facility
Your grievance FPT-24858-11 entitled
Threatening Language
was rec'd by CORC on 8/15/11

A disposition will be sent to you after the grievance is reviewed by CORC

**MARCY CORRECTIONAL FACILITY
M E M O R A N D U M**

TO: T. Stapleton, T.

FROM: Adolph/SW

DATE: 10/31/11

SUBJECT: information request

I received your request for information. You need to do a foil request to inmate records for the requested information.

To: G.G. Adol?
From: Mr. Thos. T. Stapleton
Dir.: # 04-A-1701
C.L.: A-2-45
Date: 10/29/11
Re: Information

Ms. Adol,

Please, at your earliest convenience, take a minute
to sketch out the names of the following staff members
from Five Points Correctional Facility. The names are as follows:

- 1) Captain? Picole
- 2) Lieutenant? Ferguson
- 3) Sergeant? Roberts
- 4) Unit Chief? Sibley
- 5) Ass. Dept. Prgm.? Miller
- 6) Correction Officer? Wycott
- 8) " " ? Seymour.

The first names of these staff members are defendants in a law suit to which their full names are required.

Thank-You.

Signed,
Thos. T. Stapleton

MA084 (12/04)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
MARCY CORRECTIONAL FACILITY

MEMORANDUM

TO: Shapleton, T 04 APR 11 RAL 11 045

FROM: A. DeForest Acting IRC II
IRC II, Foil Officer

SUBJECT: FREEDOM OF INFORMATION LAW

Information Requested: Five Prints, Rachel [unclear] [unclear]

DATE: 10/26/11

_____ A review of our records indicates the documents/tapes you requested consists of _____ page(s). The photocopying cost is \$.25 per page/\$1.50 per tape. Upon receipt of your **signed** disbursement form (and **clearance** w/Inmate Accounts) in the amount of \$ _____ the records you requested will be forwarded to you.

_____ Your request to hear your tape has been sent to the Law Library/Disciplinary Office. If you have purchased the tape, it will be placed in your personal property.

_____ Your Request for Medical/Psychiatric Records has been sent directly to the Nurse Administrator for response.

_____ Your request to review Guidance records has been forwarded to Guidance for a response.

_____ Pre-sentence/probation reports shall only be released in accordance with Criminal Procedure Law Section 390.50. Your request is denied.

_____ Freedom of Information Law governs the access to **existing** records. Since our review indicates the records you requested **do not exist** in our files, pursuant to the Freedom of Information Law, your request is denied at this time.

_____ Per memo dated 7/18/89 - Counsel's Office - "Rap Sheets" are no longer permitted to be released. Write to the Division of Criminal Justice Service, Bureau of Investigation and Criminal History Operation, Executive Park Post, Stuyvesant Plaza, Albany, New York 12203.

_____ Your disbursement is being processed in the amount of \$ _____. The record(s) you requested is/are attached in satisfaction of your request.

_____ Your disbursement is being returned to you as you had insufficient funds in your account. Re-request when you have sufficient funds.

☒ The incident occurred while you were at Five Prints. Write directly to the FOIL Officer at that Facility.

_____ I do not understand what you are asking for - please provide me with clarification.

You may appeal this decision by writing to the Office of the Counsel, Department of Correctional Services, State Campus, Building #2, Albany, New York 12226. The written appeal must; (1) identify the records you have been denied, (2) give the date and location of your original request, and (3) give your name and return address. Phone: 518-457-4951.

cc: File

INMATE GRIEVANCE COMPLAINT

Grievance No.

Five Points

CORRECTIONAL FACILITY

Stapleton, Trail

#04A1701

RMVU

August 24, 2011
Bldg. #77 D-a

(M)

Description of Problem

Officer M. Shramanta has for the past week, verbally become abusive to me. He has not allowed any other officer ~~to~~ escort/talk me up for program. His Frisk procedures are not per Frisk in accordance to directive policy. He is harassing me: is giving the appearance of becoming aroused when he touches my groin: testicles. His verbal abuse always has racial derogative slurs such as "nigger" as well as "boy".

Ther F. B. [Signature] 04-A-1701 August 24, 2011

That this officer be ordered to not Frisk me anymore. That he be ordered to participate in Sociology: Communication Classes: that he be ordered to undergo Psychological treatment.

Mr. Thel T. Stapleton
Din. # 04-A-1701
Bldg. # 77-D-9

August 24, 2011

Deputy Superintendent Security
Mr. J. Colvin

Dept. Colvin,

This is the very first letter I'm forwarding to you. I am really seeking your assistance.

With my experience with corrections, I am fully aware that 98% of officers will condone the actions of their colleagues. With that said, I am having problems with one specific officer that everyone knows about. I'm beginning to feel as though I'm trapped. No one is not caring to cure the problem. I am asking you to please have Officer Sharmanta, no longer handle me.

This request is made because he is making me fall where I'm doing my best to stand psychologically. All area supervisors & other officers do not do anything to defuse this situation. The situation I am speaking of is how he abuses his authority & misuse it as well. I have alerted my family hopefully now. This has to come to an end. I hope you can assist.

Thank-You

Respectfully Sent
Thel T. Stapleton

J.C.

Mr. Thavis T. Stapleton
Din. # 04-A-1701
Five Points Correctional Facility
State Route 96, P.O. Box 119
Romulus, NY 14541

August 8, 2011

Governor Andrew M. Cuomo
Governor's Office
Executive Chamber
State Capitol
Albany, NY 12224

Sir,

This letter is being written to express my deepest concerns about the racial bigotry taking place in this prison. It is mostly directed at the prisoners with disabilities. Specifically at this new Residential Mental Health Unit (RM HU).

Corrections & OMH are allegedly in a joint effort to reduce the behavioral problems of prisoners with preexisting mental disorders. While this joint effort consists of OMH implementing the programming & its overall operations, while Security oversees the security. This is (program) to be in place for prisoner-patient in S.H.U. to get the needed

treatment in a program controlled environment. However, this is not the case.

Under the supervision of Captain Picolt, Correctional Officers such as Shattemata, Wykoff, Szymora, Casper, Sergeant Jones, Sergeant Roberts, Sergeant Whalterwander, are allowed to disrespect, verbally, physically, emotionally, sexually abuse the prisoner-patients here in this program. Official Complaints has been written to the Commissioner of Corrections; the Inspector General's Office. Even the exhaustion of the administration remedies has been undertaken. To the avail of every prisoner-patient, he has received nothing but reprisals.

Nothing in this program is being utilized to help the disabled but reprisals; punishment. I am speaking from a place mentally where now, I am regressing. I am getting worse than I was when I first got here. It is my perception that this job is for a resume when its time for a promotion. No one cares if we get better, live, or die. The Unit Chief (acting) Sizoz, Dept. Ass. Pro. (acting) Miller, has totally turned this program over into the hands of people that do not want it to succeed.

Mr. Governor, I know there are more important things for you to do than listen to

prisoner that is a mental health patient. But please understand, the state money that you allowed to be spent to build this place was for a purpose. Was that purpose for a lawsuit to be taken up against the state for those officers who ~~are~~ ^{are} racist bigots that abuse their power & authority? Please Sir! The situation here is that bad & help from your office or, the Department of Justice (F.B.I.) is truly essential.

Sincerely,
~~Thur T. Stapleton~~
 Thur T. Stapleton

CC: FIA

STATE OF NEW YORK DEPARTMENT OF CORRECTIONS
Inmate Grievance Complaint

Grievance NO.

Fire Points Correctional Facility

Stapleton, Thel

#04-A-1701

RMXU


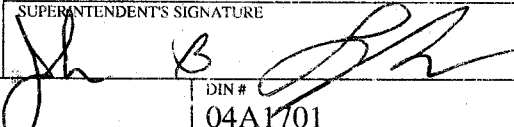
September 2nd 2011

Bldg. # 77 D-9

Description of Problem. After being interviewed by Sgt. Whalenwender for a grievance (complaint) against Corr. Off. M. Sherrameta, during the ~~afternoon~~ (P.M) program run, Off. Sherrameta & Wycoff walked passed my cell on several occasion after the Sgt left. Both officers said while passing back & forth that "no matter what you write nigger, it won't stick". They further stated that "Picote will let us take you down anytime so get ready for round 2". Wycoff specifically stated "I.G. won't be here to save you snitch."

Grievant Signature: Thel P. Stapleton 04-A-1701 Sept. 2nd, 2011

Action Requested. That these two officers be made to stop antagonizing & threatening me. That these two officers be made to keep a distance from me! not handle my food. That these officers be made to under-go psychological treatment for their hatred.

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES and COMMUNITY SUPERVISION</p> <p>INMATE GRIEVANCE PROGRAM</p> <p>SUPERINTENDENT RESPONSE</p>	GRIEVANCE NO. FPT 25075-11		DATE FILED 08/26/11
	FACILITY Five Points Correctional Facility		POLICY DESIGNATION I
	TITLE OF GRIEVANCE Inappropriate frisk; racial epithets		CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 		DATE 9/7/2011
GRIEVANT: STAPLETON, Theil		DIN # 04A1701	HOUSING UNIT 77-0D-009 RMHU

Grievant's allegation that a corrections officer conducted an inappropriate pat frisk and used racial epithets towards him has been investigated. Grievant offered no further information or witnesses to support his allegation.

The officer named in this complaint has gone on record denying any wrong doing. He stated that inmates are selected at random for pat frisks when leaving cells going to programs. The officer further stated that he conducts all pat frisks in accordance with Departmental Directive 4910.

Based on the information provided, I find no merit to this complaint.

Grievance denied.

APPEAL STATEMENT


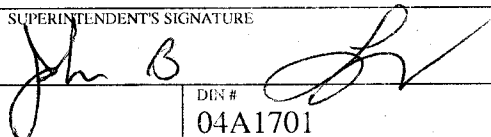
If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have four (4) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

This officer has many other complaints against him. This Superintendent, D.S.S., Capt. [illegible], has done everything to defend said officer. Supports his tactics for sexual harassment. Witnesses to the complaint are all the initial RMH patients since 6/27/11.

[Signature] Grievant's Signature **04-A-1701** **9/17/11** Date

Grievance Clerk's Signature

Date

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES and COMMUNITY SUPERVISION</p> <p>INMATE GRIEVANCE PROGRAM</p> <p>SUPERINTENDENT RESPONSE</p>	GRIEVANCE NO. FPT 24858-11		DATE FILED 07/15/11
	FACILITY Five Points Correctional Facility		POLICY DESIGNATION I
	TITLE OF GRIEVANCE Threatening Language		CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 		DATE 7/27/2011
GRIEVANT: STAPLETON, Theil		DIN # 04A1701	HOUSING UNIT 77-0D-009 RMHU

Grievant's allegation that he is being verbally threatening by a Corrections Officer has been investigated by a Security supervisor.

When interviewed, grievant offered no further information of witnesses to support his allegation.

The officer named in this grievance was also interviewed and denied any wrong doing.

The allegation of sexual harassment was investigated as a result of a separate correspondence and found to be without merit.

Based on the information provided, I find no merit to this complaint.

Grievance denied.

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have four (4) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

No investigation had been conducted, only retaliation for writing these grievances & voicing (writing) complaints

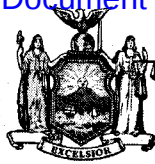
Theil
Grievant's Signature

04-A-1701

8/2/11
Date

Grievance Clerk's Signature

Date



STATE OF NEW YORK

**DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

THE HARRIMAN STATE CAMPUS – BUILDING 2

1220 WASHINGTON AVENUE

ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

LUCIEN J. LECLAIRE, JR.
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

July 27, 2011

Mr. Theil Stapleton
#04-A-1701
Five Points Correctional Facility
Caller Box 400, State Route 96
Romulus, New York 14541

Dear Mr. Stapleton:

Commissioner Fischer has asked me to respond to your letter to him alleging staff harassment at Five Points Correctional Facility.

Facility officials report the allegations referenced in your complaint are being investigated in response to your related grievance #FPT-24858-11. This is the appropriate mechanism to address your complaints. Please allow the superintendent time to investigate and respond to your grievance. If you are not satisfied with the superintendent's decision, you may appeal to the Central Office Review Committee.

If you have further questions regarding this matter, they should be directed to facility officials.

Sincerely,

A handwritten signature in black ink, appearing to read "Lucien J. Leclaire, Jr.", written in a cursive style.

Lucien J. Leclaire, Jr.
Deputy Commissioner

cc: Superintendent Lempke, Five Points Correctional Facility
Central Files